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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,784	12/10/2003	Joseph Patrick Denisson	9400-37 (030079)	6907
36072 7590 09/03/2008 MYERS BIGEL SIBLEY & SAJOVEC, P.A. P.O. BOX 37428 RALEIGH, NC 27627				
EXAMINER KAMPURIA, SHARAD K				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 09/03/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/732,784

Applicant(s)

DENNISSON ET AL.

Examiner

SHARAD RAMPURIA

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-10, 12-17, 19-21, 23-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 12-17, 19-21, 23-28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the **first** paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 12, 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the **written description requirement**. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1, 12, 23 the newly-amended limitation, “bi-directional communication between at least one mobile terminal and another mobile terminal.” The applicant's specification fails to support such limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 6, 10, 12-14, 17, 21, 23-25, 28 & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curcio et al. [US 20040057420] in view of Ishii; Miruka [US 7379760 B2].

As per Claim 1, Curcio discloses:

A method of operating a communication network (Abstract), comprising:

Providing a wireless communication network that has bandwidth associated therewith to facilitate communication; (i.e. transmission bit rate; Pg.2; 0025-0029 and Pg.4; 0061) and

Transmitting streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network. (i.e. performing according to bandwidth; Pg.2; 0030, Pg.4; 0077-0078 and Claim 1)

Curcio fails to teaches all the particulars of the claim except bi-directional communication between at least one mobile terminal and another mobile terminal; obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video content. However, Ishii teaches in an analogous art, that bi-directional communication between

at least one mobile terminal and another mobile terminal; obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, (Col.8; 30-43) the streaming media comprising audio and/or video content. (Col.29; 59-Col.30; 7) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Curcio including bi-directional communication between at least one mobile terminal and another mobile terminal; obtaining authorization from a media broadcaster that provides streaming media to rebroadcast the streaming media over the wireless network, the streaming media comprising audio and/or video content in order to provide a data transmission-reception system and a data transmission-reception method for allowing content providers such as advertisers to transmit contents such as music data from first terminal devices to a server device over a network such as the Internet so that users may later download the contents by means of second terminal devices such as mobile communication terminal devices for use as a ring tone, whereby both the content providers and the users see their due benefits realized in a balanced manner.

As per Claim 2, Curcio disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 3, Curcio disclose:

The method of claim 2, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 6, Curcio disclose:

The method of claim 1, wherein the streaming media comprises text. (i.e.; Pg.7; 0146)

As per Claim 10, Curcio disclose:

The method of claim 1, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

Claims 12, 23 are the **system, computer readable recording medium** claims, corresponding to **method** claim 1 respectively, and rejected under the same rational set forth in connection with the rejection of claim 1 respectively, above.

As per Claim 13, Curcio disclose:

The system of claim 12, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 14, Curcio disclose:

The system of claim 13, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 17, Curcio disclose:

The system of claim 12, wherein the streaming media comprises text content. (i.e.; Pg.7; 0146)

As per Claim 21, Curcio disclose:

The system of claim 12, wherein the means for transmitting the streaming media comprises: means for transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two

networks; Pg.7; 0152)

As per Claim 24, Curcio disclose:

The computer program product of claim 23, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using third generation (3G) wireless communication technology. (i.e 3rd generation; Pg.4; 0060)

As per Claim 25, Curcio disclose:

The computer program product of claim 24, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using wideband code division multiple access (WCDMA) technology, universal mobile telecommunications system (UMTS) technology, and/or enhanced data GSM (global system for mobile communications) environment technology. (i.e. UMTS; Pg.5; 0101 and Pg.7; 0145)

As per Claim 28, Curcio disclose:

The computer program product of claim 23, wherein the streaming media comprises text. (i.e.; Pg.7; 0146)

As per Claim 32, Curcio disclose:

The computer program product of claim 23, wherein the computer readable program code configured to transmit the streaming media comprises: computer readable program code configured to transmit the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network while moving the at least one mobile terminal between cells associated with the wireless network. (i.e. roaming between two networks; Pg.7; 0152)

Claims 4-5, 8-9, 15-16, 19-20, 26-27 & 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curcio and Ishii further in view of Inselberg [US 20040171381].

As per claim 4, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a Wi-Fi communication network in order to provide a method and apparatus for interactive audience participation at live spectator events.

As per claim 5, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of claim 4, wherein transmitting the streaming media comprises: transmitting the streaming media

to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035)

As per claim 8, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026)

As per claim 9, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 1, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026)

As per claim 15, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035)

As per claim 16, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of

claim 15, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035)

As per claim 19, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026)

As per claim 20, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 12, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026)

As per claim 26, the above combination teaches all the particulars of the claim except a Wi-Fi communication network. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the wireless communication network comprises a Wi-Fi communication network. (i.e. Wi-Fi; Pg.5; 0035)

As per claim 27, the above combination teaches all the particulars of the claim except a IEEE 802.11b technology. However, Inselberg teaches in an analogous art, that the method of

claim 26, wherein transmitting the streaming media comprises: transmitting the streaming media to the at least one mobile terminal using the bandwidth associated with the wireless network and using IEEE 802.11b technology. (i.e. IEEE 802.11; Pg.5; 0035)

As per claim 30, the above combination teaches all the particulars of the claim except AM, FM radio broadcast. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the streaming media comprises content from a television broadcast, an amplitude modulation (AM) radio broadcast and/or a frequency modulation (FM) radio broadcast. (i.e. AM, FM; Pg.3; 0026)

As per claim 31, the above combination teaches all the particulars of the claim except a video conference and/or a gaming application. However, Inselberg teaches in an analogous art, that the method of claim 23, wherein the streaming media comprises content from a video conference and/or a gaming application. (i.e. live events; Pg.3; 0026)

Response to Amendments & Remarks

Applicant's arguments with respect to claims 1-6, 8-10, 12-17, 19-21, 23-28, 30-32 has been fully considered but is moot in view of the new ground(s) of rejection.

Also, there was an alternate rejection was presented in office action filed on 12/27/2007, but applicant failed to response filed on 06/27/2008.

Conclusion

Applicant's amendment (For illustration; since newly amended claims modified the above-disclosed rejection) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

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/Sharad Rampuria/
Primary Examiner
Art Unit 2617